

CASE PROCESSING

Case Referral

In Fiscal Year 1997, the Internal Revenue Service Criminal Investigation (CI) Division initiated 5,335 investigations. There were 3,817 cases (73%) recommended for prosecution, with an average of 281 elapsed days from the date the case was initiated to the date the case was recommended for prosecution. During this same time frame, there were 1,427 cases (27%) discontinued, with 294 average elapsed days from the date the case was initiated to the date the case was discontinued.

The investigations were based on referrals from the following sources:

Other Federal, State or Local government Agencies	55%
IRS Functions	25%
General Public	12%
Currency Transaction Reports	6%
Miscellaneous	2%

IRS criminal investigators analyze information in the referrals to determine if criminal tax fraud or some other financial crime might have occurred. Relevant information in documents, statements, testimony and observed facts is evaluated. The investigators assess whether the case is appropriate for civil or criminal prosecution, and the chances of a successful prosecution. The information is then analyzed by the:

1. criminal investigation group manager
2. criminal investigation branch chief
3. criminal investigation division chief.

Investigations

The criminal investigation division chief approves the opening of an investigation on an individual. Once an investigation is opened, IRS criminal investigators begin efforts to gather and analyze financial data, conduct interviews and search public records. At the initial contact between the individual under investigation and the criminal investigator, the individual is given the Miranda rights.

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Search Warrants

IRS criminal investigators request search warrants only in significant cases when there is compelling information that the evidence cannot be obtained in any other way. A search warrant authorizes the search of property and possible seizure of evidence believed to be used in the conduct of criminal activity. IRS uses search warrants in approximately 4% of tax investigations. In multi-agency investigations, IRS criminal investigators also participate in search warrants when other agencies' law enforcement officials prepare the affidavit.

Obtaining a Search Warrant

When it appears that a search warrant is needed:

1. A written request is made through a sworn affidavit by the criminal investigator. The affidavit must cite facts about the alleged criminal activity by individuals having personal knowledge of them, not merely beliefs or suspicions.
2. The request is reviewed by the CI group manager;
3. The request is reviewed by the CI branch chief;
4. The request is reviewed by the CI division chief;
5. The request is reviewed by IRS district counsel;
6. The request is reviewed by the Assistant U.S. Attorney;
7. Depending on the facts and circumstances of the case, the request could also be reviewed by IRS Chief Counsel and the Department of Justice, Tax Division; and
8. The judge or magistrate then issues a search warrant on a specific premises or person.

Each level of review ensures that the facts clearly establish that a tax or money laundering crime has been committed, that the evidence sought is seizable and connected with the crime, and that the evidence sought is on the premises to be searched. Only the property named in the warrant may be seized, although prohibited or illegal possessions discovered during the search may also be seized.

Executing a Search Warrant

In conducting the authorized search:

1. The investigating agents do pre-execution planning to assure the safety of the agents and the citizens who may be involved at the raid site;
2. The inventory of seized property is to be taken in the presence of the cited individual or in the presence of at least one witness;
3. A copy of the warrant and a receipt for the property taken is given to the person whose property is seized; and

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4. An inventory of seized property must be returned to the judge or magistrate within ten days from the date of the warrant.

Recommendation for Criminal Prosecution

Once all the evidence is gathered and analyzed, the criminal investigator either makes the determination that evidence does not substantiate criminal activity and the case should not be prosecuted, or prepares a written report detailing findings of violation of the law and recommending prosecution. The report is reviewed by:

1. A criminal investigation quality review team;
2. CI group manager;
3. CI branch chief;
4. CI division chief.

Each level of review may also determine that evidence does not substantiate criminal activity and the case should not be prosecuted. These cases can be referred back to the IRS collection or examination divisions for civil action.

If CI determines the tax case should be criminal prosecuted, the recommendation is reviewed by:

1. IRS district counsel,
2. Department of Justice, Tax Division, and
3. The U.S. Attorney.

Each level of review may also determine that evidence does not substantiate criminal activity and the case should not be prosecuted.

In FY 1997, the rate of acceptance for IRS cases was very high:

<i>Reviewing Office</i>	<i>Acceptance Rate</i>
District Counsel	98.8%
Department of Justice	94.5%
U.S. Attorney	94.6%

Grand Jury or Non-Grand Jury Investigations

Investigations can be processed through grand jury or non-grand jury proceedings. Grand juries are utilized for multi-agency investigations and/or sophisticated tax or money laundering schemes. The U.S. Attorney's office monitors grand jury investigations and approves all subpoenas and special investigative techniques. During FY 1997, 2,972, or 78 percent of cases recommended for prosecution, were grand jury investigations, versus 845 non-grand jury cases.